

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 2217 - SB 2647

March 4, 2018

SUMMARY OF BILL: Establishes that the angel investor tax credit is equal to 33 percent of the value of either a direct or an indirect cash investment by an angel investor, to be used against an investor's Hall Income Tax (HIT) liability and further establishes that this tax credit applies to cash investments applicable to tax years beginning on or after January 1, 2017.

ESTIMATED FISCAL IMPACT:

Other Fiscal Impact – To the extent the current maximum allowable angel investor tax credits are not reached in any given year under current law, the proposed legislation could result in decreases in Hall Income Tax revenue allocated to the state and various local government entities beginning in FY17-18 and running through FY20-21. Due to multiple unknown factors, the extent of any such decreases, if any, cannot be quantified with reasonable certainty.

Assumptions:

- This act shall take effect upon becoming law and shall apply to tax years beginning on or after January 1, 2017.
- Public Chapter 1055 of 2016: (1) established a HIT credit equal to 33 percent of the value of an investment by an angel investor, if the investment is at least \$15,000 and represents no more than 40 percent of the capitalization of the company at the time of the investment; (2) established that the credit is equal to 33 percent of the value of an investment, if a qualified angel investor invests in a company located in a Tier 4 county; (3) limited the credit to \$50,000 per angel investor in any tax year; and (4) limited the maximum amount of credits awarded to: \$3,000,000 for tax years beginning January 1, 2017; \$4,000,000 for tax years beginning January 1, 2018; and \$5,000,000 for tax years beginning January 1, 2019, and thereafter.
- This legislation adds that the HIT credit can be claimed on direct or indirect cash investments by angel investors, and is retroactive to tax years beginning on or after January 1, 2017; therefore, donations that were made in 2017 would be eligible to receive the HIT credit for returns filed in April, 2018. As a result, the first year that could be impacted by this legislation is FY17-18.
- The retroactive nature of this legislation will allow investors to utilize contributions for additional tax credits that could not have been claimed in the absence of this legislation.
- Fiscal analysis for Public Chapter 1055 assumed that the total maximum HIT credit amounts would be awarded and claimed in any given year.

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- According to information from Launch Tennessee, which is the entity responsible for the angel investor tax credit, \$1,840,000 worth of HIT credits were issued for donations made in tax year 2017. It is unknown if any additional HIT credits will be issued before the end of FY17-18 and if the established cap of \$3,000,000 will be reached under current law.
- Further, it is unknown how much in HIT credits would be awarded and claimed in subsequent fiscal years and whether the established caps in such years would be met under current law.
- To the extent that such caps are not reached under current law, the proposed legislation could result in decreases in state and local revenue of up to \$1,160,000 in FY17-18 and of unknown amounts in subsequent fiscal years.
- Pursuant to Tenn. Code Ann. § 67-2-102, the HIT is scheduled to be fully repealed for tax years beginning on or after January 1, 2021. Based on apportionments of HIT collections for the last three fiscal years (FY14-15, FY15-16, and FY16-17), it is estimated that the state retains 65.44 percent of HIT revenue and local governments are apportioned 34.56 percent.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in blue ink that reads "Krista M. Lee". The signature is written in a cursive, flowing style.

Krista M. Lee, Executive Director

/jdb